

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	
	:	
	:	Criminal No. 21-670 (CJN)
	:	
v.	:	
	:	
STEPHEN K. BANNON,	:	
	:	
<i>Defendant.</i>	:	

NOTICE OF APPEAL

Defendant Stephen K. Bannon hereby gives notice that he appeals to the United States Court of Appeals for the District of Columbia Circuit from the final judgment of conviction and sentence entered on October 21, 2022 [ECF## 161; 162].¹ Under Rule 3 (c)(1)&(4), Federal Rules

¹ Rule 4(b)(1)(A)(i) of the Federal Rules of Appellate Procedure provides in pertinent part that in a criminal case, a notice of appeal must be filed within 14 days of the entry of the judgment being appealed. Rule 4(b)(6) provides that the judgment is “entered” within the meaning of Rule 4(b) when it is “entered on the criminal docket.” The circumstances in this case surrounding the entry of the judgment on the criminal docket are most puzzling.

Mr. Bannon was sentenced on October 21, 2022. At the end of the sentencing hearing, the Court advised the parties that the Court would “get the judgment out as quickly as possible.” [Tr. 10/21/2022 Sentencing Hearing at 79]. The Court also set a voluntary surrender date of November 15, 2022, which the Court characterized as “the period, basically, after the period by which an appeal must be noticed.” [*Id.* at 78]. That date would be removed and a stay pending appeal would be ordered, once the notice of appeal was timely filed. [*Id.* at 78].

No judgment was actually entered on the criminal docket until October 31, 2022. In fact, on October 30, 2022, defense counsel communicated among themselves, expressing concern that the judgment had not yet been entered and the voluntary surrender date was approaching. As of October 30, 2022, the last entry on the criminal docket was a Minute Order entry related to the sentencing proceedings earlier that date. Accordingly, early in the morning on October 31, 2022, the undersigned agreed to draft an email to the Court’s staff, with copies to opposing counsel, inquiring as to when the judgment would be entered. However, before the email was sent, at 10:44 a.m., the parties, for the first time, received ECF notice that the judgment had been entered on that date – October 31, 2022. That notice provided that the judgment was “entered” on October 31, 2022 and “filed” on October 21, 2022. [Exhibit 1].

of Appellate Procedure, the Notice of Appeal, of course encompasses all orders in the case preceding the judgment (See also Notes to 2021 Amendments) and that is the intention here. It also is intended to encompass the ancillary Order entered in the related case *In Re: Non-Party Subpoenas*, 1:22-mc-00060-CJN. [Minute Order of 7/12/2022].

Dated: November 4, 2022

Respectfully submitted,

SILVERMAN|THOMPSON|SLUTKIN|WHITE, LLC

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With the delivery of that notice on October 31, 2022, the judgment and statement of reasons for the judgment were then actually entered on and appeared on October 31, 2022, for the first time on the criminal docket as ECF## 161& 162. However, despite the fact that they were not actually entered on the criminal docket until October 31, 2022 and no notice of the entry of judgment went out to the parties until October 31, 2022, the judgment was entered on the criminal docket on October 31, 2022, as if it had been entered on the criminal docket ten (10) days earlier with the docket entry for both the judgment and the statement of reasons reflected as “10/21/2022.” This is very puzzling and had the effect of dramatically shortening the statutory period for Mr. Bannon to file his notice of appeal, since the controlling date under Rule 4(b)(6) is the date of entry on the criminal docket and that now (erroneously) appears as “10/21/2022” instead of the actual date of entry, “10/31/2022.” As a result, Mr. Bannon had to file within four (4) days of the actual entry date (October 31, 2022) instead of fourteen (14) days, so as to file within 14 days of the date of entry on the criminal docket (Rule 4 (b)(6)), even though that date clearly is wrong.

